
ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD
POLICY
ON THE PREVENTION OF BRIBERY

Approved by the Audit & Governance Committee on 16 February 2021

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Statement

Bribery is a criminal offence. The Royal Borough of Windsor and Maidenhead Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor does it or will it, accept bribes or improper inducements.

1 Policy Statement: Anti Bribery

Bribery is a criminal offence. The Royal Borough of Windsor and Maidenhead Borough Council ('the Council') does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor does it or will it, accept bribes or improper inducements.

1.1

To use a third party as a conduit to channel bribes to others is a criminal offence. The Council does not, and will not, engage indirectly in or otherwise encourage bribery.

1.2

The Council is committed to the prevention, deterrence and detection of bribery. The Council has zero-tolerance towards bribery. The Council will embed anti-bribery compliance within its usual business processes; the Council will NOT treat it as a one-off exercise.

2 Objective of this Policy

This policy provides a coherent and consistent framework to enable the Council's employees to understand and implement arrangements that enable compliance with the anti-bribery rules. In conjunction with related policies and key documents it will also enable employees to identify and effectively report any actual or potential breaches of those rules.

We require that all personnel including those permanently employed, temporary agency staff and contractors:

- a) act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible; and
- b) comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities.

3 Scope of this Policy

This policy applies to all of the Council's activities. For partners, joint ventures and suppliers, the Council will require the adoption of principles (and will seek to promote the adoption of formal policies) that are consistent with the principles set out in this policy.

3.1

Within the Council, the responsibility to control the risk of bribery occurring resides at all levels, in every service.

3.2

This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, non-executives, agents, Members (including independent members), volunteers and consultants.

4 Commitment

The Council commits to:

- a) setting out a clear anti-bribery policy and keeping it up to date;
- b) making all employees aware of their responsibilities to adhere strictly to this policy at all times;
- c) training all employees so that they can recognise and avoid the use of bribery by themselves and others;
- d) encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately;
- e) rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution;
- f) taking firm and vigorous action against any individual(s) involved in bribery;
- g) provide information to all employees to report breaches and suspected breaches of this policy;
- h) include appropriate clauses in contracts to prevent bribery.

5 The Bribery Act

The Council defines bribery as ‘an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage’.

5.1

There are four key offences under the Act:

- a) bribery of another person (section 1);
- b) accepting a bribe (section 2);
- c) bribing a foreign official (section 6); and
- d) failing to prevent bribery (section 7).

5.2

The Bribery Act 2010 makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business. There is also a corporate offence under Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

5.3

The guidance states that a “commercial organisation” is any body formed in the United Kingdom and “...it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made.” Therefore, the Council is a “commercial organisation”.

6 Adequate Procedures

Whether the procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the organisation. It is for individual organisations to determine proportionate procedures in the recommended areas of six principles. These principles are not prescriptive. They are intended to be flexible and outcome focussed, allowing for the different circumstances of organisations. Small organisations will, for example, face different challenges to those faced by large multi-national enterprises. The detail of how organisations apply these principles will vary, but the outcome should always be robust and effective anti bribery procedures.

7 Proportionate Procedures

An organisation's procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation's activities. They are also clear, practical, accessible, effectively implemented and enforced.

8 Top Level Commitment

The Managing Director, Directors and Members are committed to preventing bribery by persons associated with it. Bribery is never acceptable.

9 Risk Assessment

The Council will assess the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage. All managers within the Council must ensure that appropriate risk assessments are carried out in relation to the work carried out by their staff.

10 Due Diligence

The Council applies due diligence procedures, taking a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks. All staff involved in managing commercial activities must ensure that appropriate due diligence is carried out before the council enters into a business relationship with another organisation.

11 Communication (including training)

The Council seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

12 Monitoring and Review

The Council monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary. The Royal Borough of Windsor and Maidenhead is committed to proportional implementation of these principles.

13 Bribery is not tolerated

It is unacceptable to:

- a) give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
- b) give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure;
- c) accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them;
- d) accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return;
- e) retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy;
- f) engage in activity in breach of this policy.

14 Facilitation Payments

Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions. Facilitation payments are not tolerated and are illegal.

15 Gifts and Hospitality

The Council's Gifts and hospitality policy is included in the Code of Conduct - Employees must ensure:

- a) when acting in an official capacity they must not give the impression that their conduct both inside and outside work with any person or organisation is influenced by the receipt of gifts, rewards and hospitality or any other such consideration;
- b) they think about the circumstances in which offers are made and are aware that they may be regarded as owing a favour in return;
- c) they have permission from their line managers before accepting such offers and are aware that the offers may have to be returned or refused;
- d) that when gifts or hospitality have to be declined those making the offer must be courteously but firmly informed of the procedures and standards operating within the Council; and
- e) all offers, regardless of value and whether or not accepted, must be recorded in the Gifts and Hospitality register.

15.1

How an employee must react to an offer depends on the type of offer, the relationship between the parties involved and the circumstances in which the gift or hospitality is offered:

- a) employees must not be seen to be acting in their own personal interests and need to be careful that their behaviour cannot be misinterpreted;
- b) when receiving authorised gifts/hospitality, employees must be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality;
- c) an offer of a bribe or commission made by contractors, their agents or by a member of the public must be reported to the line manager and the Section 151 Officer (Director of Resources). Hospitality from contractors must also be avoided where employees / team are singled out for example Christmas lunch etc., this may be perceived as preferential treatment; and
- d) employees must not accept significant personal gifts from the contractors and outside suppliers, although the Council may wish to allow employees to keep insignificant items of token value such as pens, diaries, etc. not exceeding the value of £25. The most common form of gift is the offer of wine and chocolates etc. In general these are shared out among colleagues and provided the offers are reasonable, for example a single bottle of wine, they may be accepted. It is important that all offers are recorded in the Gifts/Hospitality Register including those that are offered and not accepted. Directors must remind their staff of the process to be followed with regards to gifts and hospitality.

15.2

No one working for, employed by, or providing services on behalf of the Council is to make, or encourage another to make any personal gain out of its activities in any way. Any person becoming aware of a personal gain being made at the expense of the Council, contractors or the public must follow the Whistleblowing procedures on the Council's website.

15.3

Employees may only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions may only be accepted when these are part of the life of the community or where the authority should be seen to be represented. All hospitality must be properly authorised and recorded in the Gifts/Hospitality Register.

15.4

Employees may accept hospitality when attending relevant conferences and courses where it is clear the hospitality is corporate rather than personal, where consent is given in advance and where it is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees must ensure that their service meets the cost of such visits to avoid putting at risk the integrity of subsequent purchasing decisions.

15.5

The acceptance of gifts and hospitality may be a subject of criticism placing the Council in a position that it has to defend such action. Consequently, it is essential that all offers and details of gifts and hospitality be recorded in the Gifts & Hospitality Register which will be held by the Director or nominated Manager.

16 Public Contracts and Failure to Prevent Bribery

Under the Public Contracts Regulations 2015 (which gives effect to EU law in the UK), a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. This organisation has the discretion to exclude organisations convicted of this offence.

17 Staff Responsibilities

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All staff are required to avoid activity that breaches this policy. Staff must:

- a) ensure that they read, understand and comply with this policy; and
- b) raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future.

As well as the possibility of civil and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

18 Raising a Concern

The Council is committed to ensuring that we all have a safe, reliable, and confidential way of reporting any suspicious activity. We want each and every member of staff to know how they can raise concerns. We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

18.1

There are multiple channels to help you raise concerns – these are explained in the Whistleblowing Policy. Staff who refuse to accept or offer a bribe, or those who raise concerns or report wrongdoing can understandably be worried about the repercussions. The Council aim to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken. **For the avoidance of doubt, any and all reports made in good faith will, therefore, be treated as Whistleblowing and gain the protection that entails.**

18.2

The Council is committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith. If you have any questions about these procedures, please contact Lead Specialist Audit and Investigation, (Shared Audit and Investigation Service with Wokingham Borough Council).

19 Other Relevant Policies

- Anti Fraud and Anti Corruption policy
- Anti Money Laundering policy
- Member/Officer Code of Conduct
- Whistleblowing policy
- Procurement and Contract Rules and Procedures

20 Processes and Procedures

The Council instructs the Lead Specialist – Shared Audit and Investigation Service to create and maintain such processes and procedures as are necessary to put this policy into effect.

21 Duty to Comply

All those mentioned in this policy are reminded that deliberately or recklessly failing to comply with this policy (or to follow the procedures and processes created in accordance with this policy) will normally amount to misconduct, which can have serious disciplinary consequences, including summary dismissal.

22 Adoption of the Policy

This version of the Policy was approved by the Audit & Governance Committee on behalf of the Council on 16 February 2021 after which it came into immediate effect. It replaces all previous policies on these subjects. .

Note: The procedures issued under para 20 may be found on Share Point.